

THE UTTARAKHAND TOURISM DEVELOPMENT BOARD ACT, 2001

[UTTARAKHAND ACT NO. 12 OF 2001]

(As passed by the Uttarkhand legislature)

“An Act to promote Tourism activities in the State of Uttarakhand in a regulated manner”

It is hereby enacted in the Fifty-Second year of the Republic of India as follows:-

CHAPTER-I

PREAMBLE

Short title,
extend and
commencement

1. (1) This Act may be called the Uttarakhand Tourism Development Board Act, 2001.
- (2) This Act shall come into force on such date as the State Government may by notification in the Gazette appoint in that behalf.
- (3) It extends to the whole of Uttarakhand.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context otherwise requires:-
 - (1) “Board” means the Uttarakhand Tourism Development Board established under section 3 of this Act;
 - (2) “Budget” means a statement of the estimated receipts and expenditure of the Board in respect of each financial year as provided for in section 13 of this Act;
 - (3) “Chairman” means the Chairman of the Board;
 - (4) “Vice Chairman” means the Vice Chairman of the Board;
 - (5) “Chief Executive Officer” means the Chief Executive Officer of the Board and ‘Additional Chief Executive Officer’ means the Additional Chief Executive Officer of the Board;
 - (6) ‘Financial Year’ means a period of 12 months beginning on first of April;
 - (7) ‘Fund’ means the Tourism Fund established under section-14 of this Act;
 - (8) ‘State’ means the State of Uttarakhand;
 - (9) ‘Tourism enterprises’ means all or any of the following:-
 - (a) Any business which provides national or international carriage for passengers;
 - (b) Any business which, either wholly or in part, provides or arranges services for visitors in Uttarakhand by way of transport, accommodation, tours or guides, whether or not such services are provided within or outside Uttarakhand;
 - (c) Any business which either wholly or in a part, distributes for the purpose of trade or retails tourism-related products such as handcrafts, souvenirs etc. made in the State of Uttarakhand;
 - (d) Any other undertaking, including any convention centers, restaurants, amusement parks, ropeways, exhibitions, shows, fair, publicity campaigns or theme parks etc. intended wholly or in part for the benefit of or for the purpose of attraction visitors to Uttarakhand.

[(10) “Director General Tourism” means the contemporary Head of the Department of Tourism Directorate.

(11) “Government Servant” means the Government servant working under the Directorate of Tourism at that time.]¹

Establishment,
Incorporation
and constitution
of the Board

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- (1) The Government of Uttarakhand shall, by notification in official gazette, establish a body in accordance with the provisions of this Act, which shall be called the Uttarakhand tourism Development Board.
 - (2) The office of the Board shall be located at a place to be notified by the State Government in the official Gazette.
 - (3) The Board shall be a body corporate with perpetual succession and a common seal with powers, subject to the provisions of this Act;
 - (a) to acquire and dispose of property both movable and immovable;
 - (b) to sue and be sued in its name;
 - (c) To perform such other acts as bodies corporate may by law perform.
 - (4) The Board shall consist of :-

Official Members:

- (a) A Chairman who shall be the Minister of Tourism, Government of Uttarakhand, ex-officio;
- (b) A Vice-Chairman who shall be the Chief Secretary, Government of Uttarakhand, ex-officio;
- (c) Secretary Tourism, Government of Uttarakhand; who shall also be ex-officio Chief Executive Officer [/Ex-officio Director General Tourism]²
- (d) An Additional Chief Executive Officer appointed by the Government who shall be Member-Secretary of the Board
- (e) Secretary, Finance, Secretary, Forest, Secretary, P.W.D. Secretary, Power, Secretary, Transport and Secretary, Planning shall be ex-officio members of the Board;
- (f) Five non-official members having expertise and experience in fields related to the tourism trade and industry, to be appointed by the State Government.

Disqualification
for being a
Member

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- A person shall be disqualified for being appointed as a member of the Board if he or she:-
- (1) has been convicted of an offence which in the opinion of the State Government involves moral turpitude;
 - (2) is an un discharged insolvent;
 - (3) is of unsound mind and has been so declared by a competent court;

1. Added by section 2 of Uttarakhand Act No. 09 of 2004.

2. Ins. by section 3 ibid.

- (4) has directly, or indirectly, by himself or by any partner, employer or employee, any share or interest, whether pecuniary or of any other nature, in any contract or employment with, by or on behalf of the Board ; or
- (5) is a Director, a Secretary, a Manager, or other officer of any company, business establishment or other society in the State of Uttarakhand which has any share or interest in any contract or employment with , by or on behalf of the Board.

Explanation – A person shall not be deemed to have any share or interest in any contract or employment with, by or on behalf of the Board by reason only of his being a shareholder of a company, business establishment or other society which has such share or interest.

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| Term of office of non-official members & Directors from the Private sector | 5. | <ol style="list-style-type: none"> (1) A non-official member of the Board shall hold office for a period of one year at a time, renewable, by the State Government. (2) A non-official member may at any time, in writing under his hand addressed to the State Government resign his office and on such resignation being accepted, he shall be deemed to have vacated his office. |
| Remuneration/ allowances etc. of the non-official members | 6. | The non-official members of the Board shall be entitled to such allowance and remunerations for their participation in the activities of the Board as may be prescribed by the Board. |

CHAPTER-II FUNCTIONS AND POWERS OF THE BOARD

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| Functions of Board | 7. | <ol style="list-style-type: none"> (1) The functions of the Board will be as under:- <ol style="list-style-type: none"> (1) Formulation of policies and strategies for development of tourism in Uttarakhand; (2) Preparation of plans for developing and strengthening tourism related infrastructure in the State ensuring inter-departmental coordination; (3) Preparation of plans for various tourism segments and activities, identification and development of projects and ensuring their timely implementation; (4) Formulation of standards, norms and policy guidelines for various tourism related activities; (5) Formulation of a strategy for mobilizing private sector participation and investment in the tourism sector; and (2) (a) Engage in, assist and or promote the improvement of facilities for visitors to Uttarakhand and the development of Uttarakhand as a global tourist destination; <ol style="list-style-type: none"> (b) Function as a regulatory and licensing Authority in respect of various tourism related enterprises and activities; (c) Undertake to promote publicity and marketing of tourism, within India and abroad, with a view to attracting tourists to Uttarakhand, and to this end also organize, and participate in, tourism-related projects both within and outside Uttarakhand; (3) The Board may appoint separate committees, consisting of subject-specialists to study the existing resources, prepare development schemes and set quality, safety and other standards in different areas of tourism. |
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- (4) The Board may requisition the services of specialist and consultancy agencies for planning, implementation and evaluation of tourism projects on such terms and conditions as it may deem appropriate.
- (5) To carry out any other tourism related activities which any be considered necessary for the promotion and development of tourism in Uttarakhand.
- (6) Implementation of any other tourism related activity as directed by State Government.
8. (1) The Board shall function as a Regulatory and Licensing Authority, subject to the provisions of this Act.
- (2) The Board may carry on such activities which may appear to the Board as advantageous, necessary or convenient in the discharge for its functions under this Act and in particular, the Board may exercise the following powers:-
- (a) establish regulations and standards for different tourism-related-activities and enterprises;
- (b) ¹{ registration of enterprises and institutions related to the tourism and issuance of licenses, recognition certificates and to prescribe conditions for the fees, to be levied, for the permission of such works:
- Provided that in case of violation of any conditions of the prescribed rules or regulations for professional activities of the tourism, the Board, as a regulatory authority, may impose and recover such penalty a may be prescribed by the Board, from time to time. In case of non-payment of penalties it may be recovered as arrears of land revenue.}
- (c) acquire, take on lease, hire, hold or enjoy movable and immovable property and to convey, assign, surrender, charge, mortgage, demise, transfer or otherwise, dispose of or deal with, any movable or immovable property belonging to the Board upon such terms as the Board considers fit;
- (d) enter into any contracts or agreements for carrying out the purposed of this Act;
- (e) receive in consideration of the services rendered by the Board, such fees or payments as may be agreed upon;
- (f) exercise all powers and perform all duties which under any other law, or may be vested in or delegated to the Board by the Government;
- (g) determine the symbol of the Board.
9. (1) The Board shall carry out the purposes of the act trough its Chief Executive officer.
- (2) The Chief Executive officer shall be appointed by Government of Uttarakhand.
- (3) The Chief Executive officer shall:-
- (a) be responsible to the Board for the proper administration and management of the functions and affairs and the Board in accordance with the policy laid down by the Board / Government and act as the head of the Department; and
- (b) exercise such financial powers as may be decided by the Board.

[(c) Ex-officio Chief Executive Officer/Ex-office Director General Tourism” shall also function as Head of the Department for the execution of service matters of all the Government servants working in the Directorate of Tourism at that time.]¹

(4) If the Chief Executive Officer is temporarily absent or temporarily incapacitated by reason of illness or for any other reason is temporarily unable to perform his duties, a person may be appointed by the Board/ Government to act in the place of the chief Executive Officer during such period of absence from duty.

Additional
Chief executive
Officer
(Member
Secretary)

10. (1) The Additional Chief Executive Officer (Member Secretary) shall be appointed by Government of Uttarakhand.
(2) The Additional Chief Executive Officer shall also be Member Secretary of the Board.

Officers and
Employees

11. (1) The Board may from time to time appoint and employ such officers and employees as may be necessary for the purposes of this Act on terms and conditions which may be prescribed by regulations made under this Act.

[(2) All the Government servants working in the Directorate of Tourism at that time shall continue to remain Government servants as such and their services shall be governed by the existing service rules. Their pay etc. shall be disbursed through Government Treasuries under the specified standard heads as applicable to other Government servants under the integrated pay disbursement system. They shall also be entitled to all other allowances and benefits admissible to the State Government servants from time to time and the post retirement benefits i.e. pension, gratuity, group insurance scheme, leave encashment etc, shall continue be borne by the Government.]²

(3) The Board may also take services of officers /employees of other Government departments/ Corporations/Institutes or other establishments on deputation basis.

[(4) All the officers and employees presently serving in the Tourism Department as Government servants shall be given opportunity to exercise their option for absorption in the Uttarakhand Tourism Development Board.

A separate organizational structure shall be created as per requirement on the basis of existing posts for all those employees, who do not opt for absorption in the Board. The Government servants shall also have the option to join the posts in the Board on deputation, but no deputation allowance will be admissible to them during the period of deputation.]³

1. Added by section 4 of Uttarakhand Act No. 09 of 2004.
2. Subs. by section 5 ibid.
3. Added by section 6 ibid.

- Delegation of powers
12. (1) The Board may, from time to time impose, delegate to the Chairman, Vice Chairman, chief Executive Officer or any committee appointed by it, any of the functions, duties and powers vested in the Board by or under this Act and any power. Function or duty so delegated may be exercised or performed by the Chairman, vice Chairman, Chief Executive or such Committee, as the case may be, on the name and on behalf of the Board.
- (2) Notwithstanding the delegation of any power, function or duty under this section, the Board shall not cease to have such power conferred upon it under this Act.
- Budget and Financies of the Board
13. (1) The Board shall in respect of each financial year prepare a statement of the estimated receipts and expenditure of the Board for that year, in the form of an annual financial statement, the board may also prepare supplementary financial statements during the course of the financial year as may be necessary.
- (2) The annual financial statement and supplementary financial statement prepared by the Board under this section shall be submitted to the State Government by such time as may be prescribed by the state Government.
- (a) The State Government shall sanction the annual budget or supplementary demand wholly or in amended form as it may deem fit;
- (b) The Board shall use the annual budget or supplementary demand sanctioned by the State Government in the year for which it has been sanctioned.
- (3) The State Government shall from time to time provide to the Board for purposed of this Act such amounts as may be deemed necessary for each financial year by way of grants –in- aid, loans, etc.
- (4) The Board may, within the limits of the annual financial statement or the supplementary financial statement sanction re-appropriation from one head of expenditure to another, subject to such general or specific guidelines as may be issued by the State Government [and for the payment of salary etc. to the then Government servants of the Tourism Department regular budgetary provision shall continue to be made by the Government in suitable standard heads under non-plan head to enable these Government servants to draw their regular salary through integrated pay disbursement system prevalent in the Government Treasuries.]¹
- Establishment and Administration of tourism Fund
14. (1) The Board shall cause to be established a fund called” Tourism fund” which shall be controlled and administered by the Board in such manner as may be prescribed by the State Government.
- (2) All monies received by or in behalf of the Board shall be credited to the Tourism Fund.
- (3) The Board may for purposed of the Act raise loans, accept grants, contributions, donations, subventions and gifts, and levy such charges and fees for tourism related activities as it consider necessary for the purpose of the Act.
- (4) The fund shall be devoted to the following purposed:-
- (1) The payment of the expenses connected with the administration of the Board; and
- (2) The payment of all expenses necessary for carrying out the purpose of this Act.

1-Added by section 4 of Uttarakhand Act No. 09 of 2004.

- Accounts and Audit 15. (1) The Board shall cause to be maintained such books of accounts and other records in relation to its functions in such form and in such manner as may be prescribed by the State Government through notification in official Gazette.
- (2) The Board shall, as soon as may be after the closing of its annual accounts, prepare an annual statement of accounts in such form and in such manner as may be prescribed by the State Government and these accounts will be subject to an annual audit.
- (3) The accounts of the Board shall be audited by the Accountant General, Uttarakhand or any officer authorized by him on his behalf.
- (4) The Board shall, in respect of every financial year cause to be prepared an Audit Report which shall be submitted by the Board to the State Government.

- Annual Report 16. (1) The Board shall, as soon as practicable, after the close of each financial year, but not later than 30th September of each year prepare an Annual report of its activities and submit it to the Government along with the audit report for the said financial year.
- (2) The Government, shall, as soon as practicable, lay the reports before the Legislative Assembly of Uttarakhand.

CHAPTER-III

MISCELLANEOUS PROVISIONS

- Suits and legal proceedings 17. (1) The Chairman or the Chief Executive Officer may, on behalf of the Board and subject to its directions:-
- (1) Institute, defend, or withdraw from any legal proceedings; and
- (2) Admit, compromise or withdraw any claim.
- (2) No suit shall be instituted against the chairman, the Vice Chairman, the Chief Executive Officer or any member, officer or employee of the Board in his personal capacity in respect of any act done or purported or intender to have been done under this Act.

- Use of symbol of the Board 18. Any person who without the permission of the Board, uses the symbol of the Board, or any representation so nearly resembling the symbol of the Board, as to cause confusion in relation to it, will be liable to suspension/ Cancellation of license and/ or shall be punishable with fine which may extend to Rs. Fifty thousand and in case of continuing offence with further fume which may extend to Rs. One thousand for everyday during which such offence continues after conviction for the first commission of the offence.

- Procedure 19. (1) No court shall take cognizance of any offence punishable under this Act except on the complaint of, or upon information received from, the Board of any officer of the Board duly authorized in this behalf.
- (2) No court inferior to that of a magistrate of the first class shall try any offence punishable under this Act.

Rules and Regulations

20. (1) ¹{ Subject to the other provisions of this Act, the State Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act. }
- (2) The Board may make regulations with respect to the rules made by the State Government and for carrying out the provisions of this Act.
- (3) Without prejudice to the generality of sub-section(1) such regulation may provide for:-
- (1) The convening of meetings of the Board, the procedure to be followed at the meetings and the periodicity of these meetings;
 - (2) The appointment or establishment of Committees from members of the Board and the co-opting of persons other than members of the Board to such Committees; and
 - (3) The manner in which documents, cheques and instruments of any description shall be signed or executed on behalf of the Board.

Dissolution of the Board	21.	<p>(1) If the State Government is of opinion that the Board has failed to carry out the functions under this Act, or that for any other reason it is not necessary to continue the Board, it may, by notification in the Gazette, dissolve the Board from such date as may be specified in the notification.</p> <p>(2) Upon the publication of a notification under section 21 (1) dissolving the Board;</p> <ol style="list-style-type: none"> (1) The Chairman, the Vice chairman and all members of the Board shall, as from the date of dissolution, vacate their offices; (2) All the powers and functions which may, by or under this Act, be exercised and performed by or on behalf of the Board shall, as from the date of dissolution, be exercised and performed, subject to the control of the State Government by such person or institution as it may specify in that behalf and all subsisting contracts, agreements and other instruments to which the Boards is a party or which are in favour of the Board may be enforced or acted upon, and all pending suits, appeals and other legal proceedings by or against, the Board may be continued, prosecuted or enforced by or against the State Government or such person or institution, as the case may be; (3) The fund of and other properties vested in the Board shall vest in the State Government; and (4) All liabilities, legally subsisting and enforceable against the Board, shall be enforceable against the State Government. <p>(3) Notwithstanding any thing contained in section 21(1) or section 21(2) the State Government may, at any time, again established a Board under section 3, thereupon:-</p> <ol style="list-style-type: none"> (1) The powers and function as well as the rights and liabilities in relation to contracts, agreements and other instruments and suits, appeals and other legal proceedings referred to in clause (2) of sub-section (2) of section (2) shall re-vest in the Board (5) The fund and other properties referred to in clause (3) of sub-section (2) of section (2) remaining with the State Government after meeting any liabilities referred to in clause (4) of sub-section (2) of section (2) thereof shall re-vest in the Board.
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